



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,509	04/05/2001	John Hindman	ODS-37	6107

1473 7590 09/16/2004
FISH & NEAVE
1251 AVENUE OF THE AMERICAS
50TH FLOOR
NEW YORK, NY 10020-1105

EXAMINER

COBURN, CORBETT B

ART UNIT PAPER NUMBER

3714

DATE MAILED: 09/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/827,509

Applicant(s)

HINDMAN ET AL.

Examiner

Corbett B. Coburn

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9, 12, 17, 18, 20-22, 30 & 31 are rejected under 35 U.S.C. 102(b) as being anticipate by Gordon (US Patent Number 2,271,508).

Claims 1, 17: Gordon teaches a method for providing the projected effects of wagering on pari-mutuel pools to a user in an interactive wagering system. The user provides input concerning a proposed wager that is associated with at least one pari-mutuel pool, pari-mutuel pool information, and the current odds for the proposed wager. The device calculates information that affects the user's potential winnings (i.e., the revised odds and payout) based on the user input and provides that information to the user. The device takes into account the amount of the proposed bet on the odds, thus providing the effect the proposed wager would have on the pari-mutuel pool to the player. (Col 3, 5-10)

Gordon's device calculates projected odds in real time using an analog computer. Prior to the player entering the proposed bet information, the system displays the current odds. The player enters a proposed bet on a particular horse into the computer via the input devices shown in Figs 2-4. This increases the resistance of the circuit to an amount that represents the total value of the pool *including the proposed bet*. The circuitry then

Art Unit: 3714

balances the resistance across the arms of the circuit to arrive at the projected odds. The projected odds are displayed to the player.

Claims 2, 18: The user input is a wager amount. (Figs 2-4)

Claims 3, 19: The user input comprises selection of a wager type (i.e., win, place, or show). (See Col 6, 13-30 for description of calculation of show odds.)

Claims 4-6, 20-22: Gordon teaches a calculator for figuring the current and projected odds for a particular horse in a particular race. This inherently comprises the selection of at least one horse in a race at a particular racetrack.

Claim 7: The information obtained is pari-mutuel pool information. (Col 1, 39-46)

Claim 8: The device can be used to determine current odds on a wager. (Col 1, 17-26)

Claim 9: The projected effect the proposed wager can have on the pari-mutuel pool is the projected odds for the proposed wager.

Claims 12, 31: The projected effects are displayed to the user. (Col 3, 20-26)

Claim 30: Gordon's device is a computer.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10, 11, 13-16, 23-39 & 32-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon as applied to claim 1, 17 above, and further in view of Mindes (US Patent Number 5,573,244).

Art Unit: 3714

Claim 10, 23: Gordon teaches the invention substantially as claimed, but does not teach a telephone as the user interface. Mindes teaches providing input to a similar system via telephone. (Col 6, 29-32) Mindes describes the use of a digital electronic computer to calculate odds information. Use of a digital computer instead of the analog computer described in Gordon requires an appropriate method of data input. Furthermore, the telephone is a ubiquitous device – virtually every household has one. This allows access to the system by more people, thus increasing the possible profits. It would have been obvious to one of ordinary skill in the art at the time of the invention to have a telephone as a part of the user interface in order to provide an appropriate input device for a digital computer to replace the analog computer described in Gordon while ensuring that most people have access to the system, thus increasing profit potential.

Claims 11, 14, 16, 24, 25, 27: Gordon teaches showing the projected effect (i.e., announcing or displaying the projected effect) to the user.

Claims 13, 26: Mindes teaches a user interface that includes a set top box. (322)

Claim 15: Mindes teaches a user interface that includes a computer. (302)

Claims 28: Mindes teaches displaying information about the game in windows. (Col 6, 33-38) While not disclosed in connection with a set top box, these windows serve to separate the information concerning different races, thus reducing player confusion. It would have been obvious to one of ordinary skill in the art at the time of the invention to have displayed the projected effects information in a window on a television in order to separate the information concerning different races, thus reducing player confusion.

Art Unit: 3714

Claim 29: Gordon teaches the invention substantially as claimed. Gordon teaches displaying both the current odds and the projected odds. The current odds are displayed prior to entering the proposed bet information and the projected odds are displayed by the calculator after entering the proposed bet information. Gordon does not teach displaying the odds in windows on a computer screen and toggling between current and projected odds screens. Mindes teaches displaying information about the game, including odds, in windows. (Col 6, 33-38) Mindes teaches that the window may occupy the entire screen. It is well known to toggle between windows that fill the entire screen.

Claims 32-62: Claims 32-62 are merely a restatement of claims 1-31 specifying electronic circuitry to perform the functions described therein. Gordon teaches the use of electronic circuitry to perform the input, calculation, or display functions, but does not teach use of a digital computer. Mindes teaches using an electronic digital computer (300) to perform such functions. Electronic digital computers are extremely well known to the art. They are used to automate manual functions involving input, calculation, and display of data. They are easier to program than analog computers and are more flexible. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used an electronic digital computer to perform the input, calculation and display functions described in order to replace the analog computer described in Gordon with a modern device that is easier to program and more flexible.

Response to Arguments

5. Applicant's arguments filed 10 June 2004 have been fully considered but they are not persuasive. Applicant argues that Gordon teaches the figuring of odds of final bets and not

Art Unit: 3714

proposed bets. Applicant contends that inputted bets cannot be removed from the pari-mutuel pool. (Arguments page 5) Applicant also contends that it is physically impossible to decrease the resistance values, stating, "Any clockwise rotation, which might conceivably decrease the resistances, is prevented by spring fingers 91."

6. Examiner must disagree with Applicant. Page 4, Col 1, 38-48 describes reducing resistance (i.e., removing values from the pari-mutuel pool). Page 5, Col 1, 2-4 describes energizing a motor to deduct resistance. Page 5, Col 2, 56-67 describes subtracting resistance from the bridge. Page 6, Col 1, 54 makes it clear that the device is designed to subtract as well as add values. Thus Gordon's device is designed to be able to calculate the effect on odds of proposed bets as opposed to being limited to calculating the effect of finalized bets. After all, one does not go up to the window and ask for one's money back. If only finalized bets were used to calculate odds, there would be no need to have a subtraction feature.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3714

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319.


The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



cbc



JESSICA HARRISON
PRIMARY EXAMINER